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6 **UNITED STATES OF AMERICA**
7 **BEFORE THE NATIONAL LABOR RELATIONS BOARD**

8 UNITED NATURAL FOODS, INC., d/b/a
9 UNITED NATURAL FOODS, INC.
and SUPERVALU, INC.

Case No. 19-CA-249264

10 and

11 INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, LOCAL 117

12
13 INTERNATIONAL BROTHERHOOD
14 OF TEAMSTERS, LOCAL 117 and
LOCAL 313

Case No. 19-CB-250856

15 and

16 UNITED NATURAL FOODS, INC., d/b/a
17 UNITED NATURAL FOODS, INC.
and SUPERVALU, INC.

**TEAMSTERS LOCAL 117 AND
LOCAL 313'S OPPOSITION TO
UNFI'S MOTION TO SEVER CASE
19-CA-249264, TO TRANSFER CASE
19-CB-250856 TO THE BOARD, AND
FOR SUMMARY JUDGMENT IN
CASE 19-CB-250856**

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21 On February 1, 2021, UNFI filed a Motion to Sever Case 19-CA-249264, to Transfer
22 Case 19-CB-250856 to the Board, and for Summary Judgment in Case 19-CB-250856.
23 Subsequently, and without the Board issuing any ruling on UNFI's Motion to Sever, to Transfer,
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1 and for Summary Judgment, on February 24, 2021, Region 19 issued an Order Severing the
2 above-mentioned cases and withdrawing the Complaint in Case 19-CB-250856.

3 Because the Complaint in Case 19-CB-250856 has now been dismissed prior to the
4 scheduled hearing, UNFI's Motions are moot and do not require a response. *See N.L.R.B. v.*
5 *UFCW, Local 23*, 484 U.S. 112, 126, 108 S. Ct. 413 (1987) ("...until the hearing begins,
6 settlement or dismissal determinations are prosecutorial"); *Sheet Metal Workers Int'l Ass'n,*
7 *Local Union 28 (American Elgen)*, 306 NLRB 981, 982 (1992) (General Counsel's unreviewable
8 final authority "includes a purely 'prosecutorial' decision to withdraw a complaint, i.e.,
9 effectively a dismissal," prior to the introduction of "evidence in support of the allegations" at
10 hearing); *AMNS Calvert*, Case Nos. 15-CA-244523 and 15-CB-244598, unpublished order dated
11 Jan. 29, 2021 ("Because the Regional Director's withdrawal of the complaints in this case prior
12 to the hearing was specifically authorized by Section 102.18, the Respondent's Motion for
13 Summary Judgment is moot.").¹

14 RESPECTFULLY SUBMITTED this 16th day of March, 2021.

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22 ¹ In the unlikely event that the Board issues a Notice to Show Cause why UNFI's Motion for Summary Judgment
23 should not be granted, the Unions reserve the right to file an opposition at a later time. In addition, because Charging
24 Party UNFI lodges a number of incorrect claims about the purported ripeness of this case for summary disposition in
support of its March 9, 2021, Special Appeal, the Unions address those misrepresentations in their Response in
Opposition to UNFI's Special Appeal, filed with the Board this same day.

DECLARATION OF SERVICE

I, Esmeralda Valenzuela, declare under penalty of perjury under the laws of the State of Washington, that on the date set forth below I caused the foregoing *Teamsters Local 117 and Local 313's Opposition to UNFI's Motion to Sever Case 19-CA-249264, to Transfer Case 19-CB-250856 to the Board, and for Summary Judgment in Case 19-CB-25085* to be filed with the Office of Executive Secretary/Board via electronic filing.

On this same date, I caused a true and correct copy of the same to be served via electronic mail to:

PARTY/COUNSEL	DELIVERY INSTRUCTIONS
Ronald K. Hooks, Regional Director National Labor Relations Board Region 19 915 2nd Avenue, Room 2948 Seattle, WA 98174-1078 ronald.hooks@nrlb.gov	<input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> U.S. Mail <input type="checkbox"/> E-Service
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DATED this 16th day of March, 2021 at Seattle, Washington.

By: 
Esmeralda Valenzuela, Paralegal